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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,691	08/12/2005	Thomas Robert Corbett	ARD124USA	7163

7590 12/10/2008
Skinner & Associates
212 Commercial Street
Hudson, WI 54016

EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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12/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,691	Applicant(s) CORBETT, THOMAS ROBERT	
	Examiner John Paradiso	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendments

1. In view of the amendments filed 1/14/2008, the rejections to the claims under 35 U.S.C. § 112 are hereby withdrawn.

Claim Rejections

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5 and 7-19 are rejected under 35 U.S.C. 102(b) as being anticipated by MCCLUNEY (US 5322409).

MCCLUNEY discloses a method and apparatus for harvesting produce (21) so that an operator (20) is held by a body support element (18) (see MCCLUNEY Fig. 1 and column 2:37-61). The operator braces their feet against a crossbar (12) and can move in relation to the support structure thereby (see Fig. 3a and column 4:4-16).

Regarding claims 2 and 20, a plurality of body support elements is shown in Fig. 1 of MCCLUNEY.

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Regarding claim 3, the range of movement can be inferred from the proportions of the human figure shown in Fig. 1, which can be assumed to be 1.5 – 2 m in height (or length, since the figure is illustrated prone).

Regarding claim 10, the claimed “collection area” and “conveyor system” is being read on belt (36) (see Fig. 2b) and collection area in MCCLUNEY.

Regarding claim 15, Applicant has been given Official Notice that the use of sensors to guide robotic movers is well known in the packaging art and it would also have been obvious to one of ordinary skill in the art at the time the invention was made to add such sensors to the invention of HARRIS in order to provide extra safety for the user. Since this point is not in dispute, it will hereafter be referred to as admitted prior art. Examiner also notes that it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

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4. Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over HARRIS (US 2378847) in view of MCCLUNEY (US 5322409).

HARRIS discloses a method and apparatus for harvesting produce (1) which is moved by means of rotatable members (2, 3). A body support element (4) supports a picker (see Fig. 1). While the apparatus is moving in a first direction (2), the support element can be moved vertically by means of a moving assembly (9, 11).

HARRIS does not disclose the use of a motor to move the support element or the use of sensors to control the speed of the apparatus. HARRIS also does not disclose the support element being movable relative to the support structure.

MCCLUNEY discloses a method and apparatus for harvesting produce (21) so that an operator (20) is held by a body support element (18) (see MCCLUNEY Fig. 1 and column 2:37-61). The operator braces their feet against a crossbar (12) and can move in relation to the support structure thereby (see Fig. 3a and column 4:4-16).

However, Fig. 1 of HARRIS shows the support member being moved manually by means of pedals and gears (12, 14, 18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a motor to accomplish this motion in order to reduce strain on the user, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

It would also have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of HARRIS by using the support sling of MCCLUNEY in order to provide more flexibility for the operator.

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Regarding claims 2 and 20, a plurality of body support elements is shown in Fig. 2 of HARRIS.

Regarding claim 3, the range of movement can be inferred from the proportions of the human figure shown in Fig. 1, which can be assumed to be 1.5 – 2 m in height (or length, since the figure is illustrated prone).

Regarding claim 6, the runners (6) of HARRIS are being read as the claimed “pair of linear runners”.

Regarding claim 10, the claimed “collection area” and “conveyor system” is being read on the chute (36) and collection area in HARRIS (see Fig. 3).

Regarding claim 15, Applicant has been given Official Notice that the use of sensors to guide robotic movers is well known in the packaging art and it would also have been obvious to one of ordinary skill in the art at the time the invention was made to add such sensors to the invention of HARRIS in order to provide extra safety for the user. Since this point is not in dispute, it will hereafter be referred to as admitted prior art. Examiner also notes that it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

Examiner John Paradiso: (571) 272-4466

December 4, 2008

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

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